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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,401	07/11/2003	James M. Grace	EVE002-098	3301

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EXAMINER

WILKENS, JANET MARIE

ART UNIT PAPER NUMBER

3637

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/617,401

Applicant(s)

GRACE ET AL.

Examiner

Janet M. Wilkens

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status:**

- 1) ☒ Responsive to communication(s) filed on 09 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 16-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 14 is/are rejected.
- 7) ☒ Claim(s) 8-13 and 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/11/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### ***Election/Restrictions***

Applicant's election with traverse of Group I in the reply filed on June 9, 2005 is acknowledged. The traversal is on the ground(s) that no burden would be placed on the examiner by having to additionally search/review method claims 16-21. This is not found persuasive because method steps/limitations such as those found in claims 16-21 garner different considerations during the examination process, i.e. during the searching process and during the applying of art for a rejection(s). Furthermore, these types of steps are not found within the subclasses of class 312 (unless incidentally) which deals with finished articles/cabinets. The method claims are best examined separately by an examiner in method class 29 who routinely deals with these types of claims.

The requirement is still deemed proper and is therefore made FINAL.

Therefore, claims 16-21 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

### ***Claim Objections***

Claim 14 is objected to because of the following informalities: the phrase "with the stanchion is nested..." should read "when the stanchion is nested...". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claim 2, it is unclear whether or not the fasteners are to be claimed in combination with the rest of the assembly. In lines 3-4, the apertures are only "adapted to receive" the fasteners; however, in line 4-6, the hinge member and reinforcing members are positively attached via the fasteners. For claim 14, "the terminal bent end section" lacks antecedent basis.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Woolley et al (4,735,062). Woolley teaches a refrigerator cabinet assembly (Fig. 3) comprising: a shell (11) with side and top walls, the fronts thereof including a front flange (58, 56, 62), a return flange (66) and a rear flange (64,70); a mullion (16) extends across and interconnects the first and second side walls; and a reinforcement assembly including first and second reinforcing members (two pairs 80,82) is arranged against a respective rear flange and corresponding side wall. Hinge members (15) are attached to the shell and to a respective reinforcement assembly via apertures (97,100) and

fasteners (94). Furthermore, the reinforcing members are corner brackets, each which include a top plate (upper member 84) with first and second upper flanges (86,88) and a side plate (side member 84) with first and second side flanges (86,88).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakayama et al (4,586,348) in view of Woolley et al (4,735,062). Nakayama teaches a refrigerator cabinet assembly (Fig. 1) comprising: a shell (2) with side and top walls, the fronts thereof including a front flange (19A), a return flange (19B), a rear flange (42) and a terminal bent section (19D) with slots (25) and a reinforcement assembly including first and second reinforcing members (two pairs 26) with tabs (31) arranged against a respective rear flange and corresponding side wall. For claim 1, Nakayama fails to teach a mullion extending across and interconnecting the first and second side walls. Woolley teaches a refrigerator cabinet (Fig. 3) including a mullion (16) extending across and interconnecting the first and second side walls thereof. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the cabinet assembly of Nakayama by adding a mullion bar, such

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as is taught by Woolley, thereon, to provide a divider/reinforcement member inside the refrigerator compartment.

***Allowable Subject Matter***

Claims 8-13 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

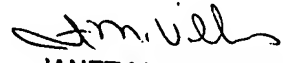
Claim 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (571) 272-6869. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkens  
June 24, 2005

  
JANET M. WILKENS  
PRIMARY EXAMINER  
Art 3637